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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,469	03/26/2007	Rodney James Dry	T2211-11786US01	5189
181 7590 06/15/2010 MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833				
EXAMINER				
MC GUTHRY BANKS, TIMA MICHELE				
ART UNIT		PAPER NUMBER		
1793				
NOTIFICATION DATE		DELIVERY MODE		
06/15/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milestockbridge.com
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Office Action Summary

Application No.

10/587,469

Applicant(s)

DRY ET AL.

Examiner

TIMA M. MCGUTHRY-BANKS

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-16, 19-22, 24-30, 33, 34 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13, 19, 20, 24-27, 33, 34, 36 and 37 is/are rejected.
- 7) ☒ Claim(s) 14-16, 21, 22 and 28-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

Claims 1, 7, 8, 10, 11, 19, 20, 24, 33, 34 and 38 are currently amended, Claims 2-4, 13 and 25 are as originally filed, Claims 5, 6, 12, 14-16, 21, 22, 26-30, 36 and 37 are as previously presented and Claims 9, 17, 18, 23, 31, 32, 35 and 39 are cancelled.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/12/2010 was filed after the mailing date of the non-final action on 12/3/2009. The submission complies with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8, 10-13, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallomy (US 6,438,154 B2).

Vallomy is applied as discussed in the office action mailed 11/18/2009.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vallomy as applied to claim 1 above, and further in view of Dimitrov et al (US 6,241,798 B1).

Vallomy in view of Dimitrov et al is applied as discussed in the office action 11/18/2009.

Claims 24-27, 33, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallomy.

Vallomy is applied as discussed in the office action mailed 11/18/2009.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vallomy as applied to claim 24 above, and further in view of Dimitrov et al.

Vallomy in view of Dimitrov et al is applied as discussed in the office action mailed 11/18/2009.

Allowable Subject Matter

Claim 38 is allowed.

Claims 14-16, 21, 22 and 28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding Claims 14, 15, 21, 22, 28 and 29, Vallomy teaches maintaining the temperature of the steelmaking slag at 1300 C. There is no basis to suggest a temperature less than 1050 °C or cooling. Regarding Claims 16 and 30, Vallomy does not teach using wet sludge containing steelmaking slag. Regarding Claim 38, Vallomy does not teach or suggest using iron ore.

Response to Arguments

Applicant's arguments filed 6/3/2010 have been fully considered but they are not persuasive. Applicant argues that Vallomy does not indicate that phosphorus is partitioned to any iron-making slag. However, a material balance of Example 1 shows that the steelmaking slag from the EAF contains 0.5% P_2O_5 in 100 kg, or 0.5 kg P_2O_5 . The output slag contains 0.41% P_2O_5 in 107 kg, or 0.439 kg P_2O_5 . Therefore, Vallomy reads on partitioning since the claims do not specify how the P_2O_5 goes to the slag, and the material balance shows that P_2O_5 ends up in the output slag.

Applicant also argues that Innes should not be combined with Vallomy. Innes was cited for claim limitations that have since been cancelled, so that argument is moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMA M. MCGUTHRY-BANKS whose telephone number is (571)272-2744. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Wyszomierski/
Primary Examiner
Art Unit 1793

/T. M. M./
Examiner, Art Unit 1793
12 June 2010